IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-14434-2020
Date of decision : 16.10.2024

Rajinder Kumar .....Petitioner

V/S

State of Punjab and others ...Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Surinder Garg, Advocate for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Puneet Kansal, Advocate for respondent No.6.

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NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for setting aside the action of the respondents vide which the petitioner is being paid only 90% of his provisional pension. Further seeking a writ of mandamus directing the respondents to release the arrears of provisional pension deducted @ 10% to the petitioner along with interest @ 18% per annum.

2. Brief facts of the case, as have been pleaded in the present petition, are that vide order dated 05.08.1985, the petitioner was appointed as Octroi Clerk. Thereafter, vide order dated 05.08.1986, the services of the petitioner were regularized as Clerk and further, vide order dated 13.08.1986, the services of the petitioner were confirmed as Clerk from the date of his appointment i.e. 05.08.1985. The petitioner

was due to retire on 31.01.2016 but he was given the extension of one year twice. While he was on extension of the second year, FIR No.11 dated 02.08.2017 under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 was registered against him at Police Station Vigilance Bureau, Bathinda. Thereafter, vide order dated 07.08.2017, the petitioner was suspended from service. The suspension order was challenged by the petitioner before this Court by filing *CWP No.26975 of 2017 titled as 'Rajinder Kumar Vs. State of Punjab and others'*. The said writ petition was allowed vide order dated 06.03.2020 and the suspension order dated 07.08.2017 was set aside and the suspension period was ordered to be considered as Duty period and all the benefits were also allowed to the petitioner. During the pendency of the abovesaid writ petition, the petitioner retired from service vide order dated 30.01.2018. After his retirement, office of respondent No.6, vide letter dated 28.02.2018, sent the pension case of the petitioner to the office of respondent No.5 for verification/approval. The office of respondent No.5, with its recommendations, sent the case vide letter dated 13.03.2018 to the office of respondent No.4, for approval of the provisional pension. The office of respondent No.4, vide letter dated 25.06.2018, while sending the Pension Certificate to the petitioner, informed him that after making a cut of 10%, 90% monthly provisional pension of the petitioner is being credited to his bank account regularly. Thereafter, the petitioner made various representations to the respondents requesting them not to make any cut in his provisional pension and release the arrears of the amount deducted along with interest but to no avail. Hence, the present petition.

3. Learned counsel for the petitioner submits that although during the pendency of the present petition, the arrears of pension has been released to the petitioner in the month of June, 2023, however, there is a considerable delay in releasing the same. Therefore, the petitioner is entitled for interest on the same.

4. Per contra, learned State counsel and learned counsel for respondent No.6 submitted that since the grievance of the petitioner has been redressed as the petitioner is being paid 100% provisional pension from the month of May, 2023 onwards and arrears of pension amounting to Rs.2,05,736/- have also been released to the petitioner, therefore, the instant petition has been rendered infructuous.

5. I have heard learned counsel for the parties and have gone through the relevant documents.

6. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 31.01.2018 and despite the fact that vide order dated 06.03.2020, passed by this Court in CWP No.26975 of 2017 titled as 'Rajinder Kumar Vs. State of Punjab and others', the suspension order dated 07.08.2017 of the petitioner was set aside and the suspension period has been ordered to be considered as Duty period and all the benefits were also allowed to the petitioner, the arrears of pension have been released to the petitioner in the month of June, 2023. Since, there is a considerable delay in releasing the said

benefit to the petitioner, therefore, the petitioner cannot be denied the interest on the same.

7. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable, employee will be entitled for interest. The relevant paragraph of said judgment is as under:-

> *"8. Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."*

8. Apart from this, in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355***, this Court had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the said judgment is as under: -

> *"5. The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component*

> *of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."*

9. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to respondent No.4 to pay interest @ 6% per annum to the petitioner, on the delayed payment of arrears of pension, w.e.f. 01.05.2018 (i.e. after three months of his retirement) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

16.10.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No